

Category: 300  
Number: 366  
Subject: Family Medical Leave Act (FMLA) Expansion Policy

1. **PURPOSE:** The purpose of this policy is to define expanded family medical leave provided to employees of Saginaw County during the pandemic outbreak of COVID-19, Coronavirus, as required by H.R. 6201, the “Families First Coronavirus Response Act” of 2020, which includes the FMLA Expansion Act and the Emergency Paid Sick Leave Act. This policy will be in effect from April 1, 2020, until March 31, 2021. Our existing FMLA leave policy still applies to all other FMLA-qualifying reasons for leave outside of this policy.
2. **AUTHORITY:** The Saginaw County Board of Commissioners
3. **APPLICATION:** This policy applies to all qualifying Saginaw County full-time and part-time employees as defined by the Act who have been employed for more than thirty (30) days. As allowed by the FMLA Expansion Act, Health Care Providers and Emergency Responders (Sheriff Department, Juvenile Detention, and Health Department [only those employees who meet the definition of healthcare provider] employees) are exempt from and do not qualify for this leave.
4. **RESPONSIBILITY:** The Controller/CAO will have responsibility for implementing and administering this policy.
5. **DEFINITIONS:**

“Child” means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age, or is 18 or older and incapable of self-care because of a mental or physical disability.

“Child care provider” is someone who cares for your child on a paid or unpaid basis.

  - A center-based child care provider.
  - A group home child care provider.
  - A family child care provider (one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence).
  - Other licensed provider of childcare services for compensation.
  - A child care provider that is 18 years of age or older who provides child care services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece or nephew of such provider, at the direction of the parent.

“School” means an elementary or secondary school.

“Place of Care” is a physical location in which care is provided for your child.

“Healthcare Provider” means personnel employed who are capable of providing, and employed to provide diagnostic, preventative or treatment services or services that are integrated with and necessary to diagnostic, preventive or treatment services and, if not provided, would adversely impact patient care. It is not enough that an employee works for an entity that provides healthcare services.

“Diagnostic Services” include taking or processing of samples, performing or assisting in the performance of x-rays, or other diagnostic tests or procedures, and interpreting tests or procedure results.

“Preventative Services” include screenings, check-ups, and counseling to prevent illnesses, disease, or other health problems.

“Treatment Services” include performing surgery or other invasive or physical interventions, administering or providing prescribed medications, and providing or assisting in breathing treatments.

Services that are integrated with and necessary to diagnostic, preventative, or treatment services and if not provided would adversely impact patient care include taking vital signs, setting up medical equipment for procedures, and transporting patients and samples.

6. PRELIMINARY STATEMENT: Saginaw County shall administer this policy in accordance with the FMLA Expansion Act. Thus although this policy sets forth a summary of the requirements, process and procedure regarding employees’ use of leave under applicable circumstances, Saginaw County shall administer this policy in accordance with the Act and its regulations.
7. POLICY: It shall be the policy of Saginaw County to provide leave in accordance with the FMLA Expansion Act for all eligible employees.
8. ADMINISTRATIVE PROCEDURES: The FMLA Expansion Act provides an entitlement of up to 12 weeks of job-protected, “Public Health Emergency Leave” (PHEL) to eligible, covered employees who have been employed for 30 plus days, who are unable to work because they must care for their child/children if the child/children’s school or place of care is closed or the childcare provider is unavailable due to a public health emergency.
  - 8.1 The first ten (10) days of PHEL are unpaid; however, an employee may elect to use accrued paid leave instead of unpaid leave. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act.
  - 8.2 After the first ten (10) days, Saginaw County will provide pay for each additional day of qualifying PHEL at two-thirds (2/3) the employee’s regular rate for the number of hours the employee would otherwise be normally scheduled. This payment is limited to \$200 per day or \$10,000 in the aggregate. Employees may take up to twelve (12) weeks of qualifying PHEL.
  - 8.3 Employees who work a part-time or irregular schedule are entitled to be paid based on the average number of hours the employee worked in a two-week period prior to taking PHEL. Hours of leave are calculated based on the number of hours the employee is normally scheduled to work. If the employee’s schedule varies, the six-month average may be used to calculate the average daily hours. Employees who have worked for less than six months prior to leave are entitled to the employee’s reasonable expectation at

hiring of the average number of hours the employee would normally be scheduled to work.

- 8.4 Eligible employees taking leave under the FMLA Expansion Act will be reinstated to their former positions, or to an equivalent position with equivalent benefits and other terms and conditions of employment. However, no employee is entitled under this policy to any right, benefit or position other than that to which the employee would have been entitled had they not taken leave. Thus, for example, if a layoff or some other extenuating circumstance or business condition arises which affects the employee's position, reinstatement may not be possible.
  - 8.5 Employees requesting PHEL shall complete the FMLA Expansion Leave Request Form, following occurrence of potentially qualifying reason for leave. All PHEL leave is subject to approval by the Controller's Office.
  - 8.6 Approved FMLA Expansion Leave/PHEL shall be reported on employee time sheets as "COVID-19 FMLA" so that it is paid at the 2/3 rate.
  - 8.7 Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.
  - 8.8 Increments & Intermittent Use of Leave: Employees may take FMLA Expansion Leave/PHEL intermittently and in any increment agreed to with the Controller's Office. For example, an employee may only need 4 hours per day of leave to care for his or her child or may only need to do so on Tuesdays and Thursdays. Managers and employees are expected to be flexible in scheduling wherever possible.
9. CONTROLLER/CAO LEGAL COUNSEL REVIEW: The Controller/CAO has determined that this policy as submitted to the Board of Commissioners contains the necessary substance in order to carry out the purpose of the policy. County Civil Counsel has determined that this policy as submitted contains content that appears to be legal activities of the Saginaw County Board of Commissioners.

Approved as to Substance:

Approved as to Legal Content

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Saginaw County Controller/CAO

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Saginaw County Civil Counsel

ADOPTED: April 21, 2020

AMENDED: June 16, 2020; December 15, 2020; January 19, 2021